

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

JUDGMENT INCLUDING SENTENCE
UNDER THE SENTENCING REFORM ACT

V.

DEMETRIUS KENNEY

Case Number CR 06-407

Marketa Sims, AFPD

Defendant's Attorney

THE DEFENDANT:

X pleaded guilty to count one.
_____ was found guilty on count(s) _____ after a plea of not guilty.

Accordingly, the court has adjudicated that the defendant is guilty of the following offense(s):

Title and Section	Nature of Offense	Date Offense Concluded	Count Number(s)
18 U.S.C. § 922(g)(3)	Possession of a Firearm by an Unlawful Narcotics User	April 35, 2005	1

The defendant is sentenced as provided in pages 2 through 8 of this Judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

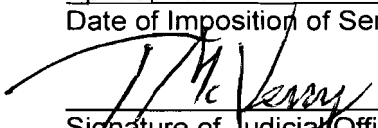
_____ The defendant has been found not guilty on count(s) _____ and is discharged as to such count(s).
_____ Count(s) _____ are dismissed on the motion of the United States.
_____ The mandatory special assessment is included in the portion of this Judgment that imposes a fine.
X It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, which shall be due immediately.

It is further ordered that the defendant shall notify the United States Attorney for this district within 30 days of any change of residence or mailing address until all fines, restitution, costs, and special assessments imposed by this Judgment are fully paid.

Defendant's USM No.

April 5, 2007

Date of Imposition of Sentence



Signature of Judicial Officer
U.S. District Judge

April 5, 2007

Date

Defendant: Demetrius Kenney
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PROBATION

The defendant is hereby placed on probation for a term of 30 months.

The defendant shall not commit another federal, state or local crime.

The defendant shall not unlawfully possess a controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of placement on probation and at least two periodic drug tests thereafter, as determined by the court.

The above drug testing condition is suspended, based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)

X The defendant shall not possess a firearm, destructive device, or any other dangerous weapon. (Check, if applicable.)

X The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)

☐ The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of probation that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

For offenses committed on or after September 13, 1994:

The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to periodic drug tests, as directed by the probation officer.

Defendant shall participate in a program of testing and, if necessary, treatment for substance abuse as directed by the Probation Office, until such time as he is released from the program by the Probation Office. Defendant shall be required to contribute to the costs of services for any such treatment in an amount determined by the Probation Office, but not to exceed the actual cost. Defendant shall submit to one drug urinalysis within 15 days after being placed on Probation and at least two periodic tests thereafter.

Defendant shall participate in an alcohol aftercare treatment program approved by the Probation Office which may include urine testing.

Defendant: Demetrius Kenney
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STANDARD CONDITIONS OF SUPERVISION

While the defendant is on probation or supervised release pursuant to this Judgment:

- 1) the defendant shall not commit another Federal state or local crime;
- 2) the defendant shall not leave the judicial district without the permission of the court or probation officer;
- 3) the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 4) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 5) the defendant shall support his or her dependents and meet other family responsibilities;
- 6) the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling training or other acceptable reasons;
- 7) the defendant shall notify the probation officer within seventy-two hours of any change in residence or employment;
- 8) the defendant shall refrain from excessive use of alcohol and shall not purchase possess use distribute or administer any narcotic or other controlled substance or any paraphernalia related to such substances except as prescribed by a physician;
- 9) the defendant shall not frequent places where controlled substances are illegally sold used distributed or administered;
- 10) the defendant shall not associate with any persons engaged in and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer; criminal activity
- 11) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 12) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 13) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 14) as directed by the probation officer the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history of characteristics and shall permit the probation officer to make such notifications and to confirm the defendant's compliance with such notification requirement.

These conditions are in addition to any other conditions imposed by this Judgment.

Upon finding of a violation of probation or supervised release I understand that the Court may (1) revoke supervision (2) extend the term of supervision and/or (3) modify the conditions of supervision.

All of the conditions listed in this order have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signature)

(Date)

U.S. Probation Officer/Designated Witness

(Date)

Defendant: Demetrius Kenney
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**RESTITUTION, FORFEITURE, OR
OTHER PROVISIONS OF THE JUDGMENT**

_ The defendant shall make restitution to the following persons in the following amounts:

Name of Payee

Amount of Restitution

Payments of restitution are to be made to:

_ Clerk, U. S. District Court, for transfer to the payee.

Restitution shall be paid:

___ The Court has determined that the defendant does not have the ability to pay interest. It is ordered that the interest requirement is waived.

Any payment shall be divided proportionately among the payees named unless otherwise specified here.

FORFEITURE

___ The defendant is ordered to forfeit the following property to the United States:

DEFENDANT: DEMETRIUS KENNEY
CASE NUMBER: CR 06-407
DISTRICT: WESTERN DISTRICT OF PENNSYLVANIA

STATEMENT OF REASONS
(Not for Public Disclosure)

I COURT FINDINGS ON PRESENTENCE INVESTIGATION REPORT

- A ☐ The court adopts the presentence investigation report without change.
- B ☒ The court adopts the presentence investigation report with the following changes.
(Check all that apply and specify court determination, findings, or comments, referencing paragraph numbers in (Use page 4 if necessary.)
- 1 ☒ **Chapter Two of the U.S.S.G. Manual** determinations by court (including changes to base offense level, or specific offense characteristics):
Base offense level reduced from 14 to 12 as there was no evidence to support an enhancement for drug trafficking activity
- 2 ☐ **Chapter Three of the U.S.S.G. Manual** determinations by court (including changes to victim-related role in the offense, obstruction of justice, multiple counts, or acceptance of responsibility):
- 3 ☐ **Chapter Four of the U.S.S.G. Manual** determinations by court (including changes to criminal history scores, career offender, or criminal livelihood determinations):
- 4 ☐ **Additional Comments or Findings** (including comments or factual findings concerning certain information presentence report that the Federal Bureau of Prisons may rely on when it makes inmate classification, or programming decisions):
- C ☐ The record establishes no need for a presentence investigation report pursuant to Fed.R.Crim.P. 32.

II COURT FINDING ON MANDATORY MINIMUM SENTENCE (Check all that apply.)

- A ☒ No count of conviction carries a mandatory minimum sentence.
- B ☐ Mandatory minimum sentence imposed.
- C ☐ One or more counts of conviction alleged in the indictment carry a mandatory minimum term of imprisonment, sentence imposed is below a mandatory minimum term because the court has determined that the mandatory does not apply based on
- ☐ findings of fact in this case
 - ☐ substantial assistance (18 U.S.C. § 3553(e))
 - ☐ the statutory safety valve (18 U.S.C. § 3553(f))

III COURT DETERMINATION OF ADVISORY GUIDELINE RANGE (BEFORE DEPARTURES):

Total Offense Level: 12
Criminal History Category: I
Imprisonment Range: 10 to 16 months
Supervised Release 2 to 3 years
Fine Range: 3,000.00 to \$ 30,000.00

X Fine waived or below the guideline range because of inability to pay.

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STATEMENT OF REASONS
(Not for Public Disclosure)

IV ADVISORY GUIDELINE SENTENCING DETERMINATION (Check only one.)

- A ☐ **The sentence is within an advisory guideline range that is not greater than 24 months, and the court**
- B ☐ **The sentence is within an advisory guideline range that is greater than 24 months, and the specific**
(Use page 4 if necessary.)
- C ☒ **The court departs from the advisory guideline range for reasons authorized by the sentencing**
(Also complete Section V.)
- D ☐ **The court imposed a sentence outside the advisory sentencing guideline system.** (Also complete

V DEPARTURES AUTHORIZED BY THE ADVISORY SENTENCING GUIDELINES (If applicable.)

A The sentence imposed departs (Check only one.):

- ☒ below the advisory guideline range
☐ above the advisory guideline range

B Departure based on (Check all that apply.):

1 Plea Agreement (Check all that apply and check reason(s) below.):

- ☒ 5K1.1 plea agreement based on the defendant's substantial assistance
☐ 5K3.1 plea agreement based on Early Disposition or "Fast-track" Program
☐ binding plea agreement for departure accepted by the court
☐ plea agreement for departure, which the court finds to be reasonable
☐ plea agreement that states that the government will not oppose a defense departure motion.

2 Motion Not Addressed in a Plea Agreement (Check all that apply and check reason(s) below.):

- ☐ 5K1.1 government motion based on the defendant's substantial assistance
☐ 5K3.1 government motion based on Early Disposition or "Fast-track" program
☐ government motion for departure
☐ defense motion for departure to which the government did not object
☐ defense motion for departure to which the government objected

3 Other

- ☐ Other than a plea agreement or motion by the parties for departure (Check reason(s) below.):

C Reason(s) for Departure (Check all that apply other than 5K1.1 or 5K3.1.)

- | | | |
|--|---|---|
| <input type="checkbox"/> 4A1.3 Criminal History Inadequacy | <input type="checkbox"/> 5K2.1 Death | <input type="checkbox"/> 5K2.1 Lesser Harm |
| <input type="checkbox"/> 5H1.1 Age | <input type="checkbox"/> 5K2.2 Physical Injury | <input type="checkbox"/> 5K2.1 Coercion and Duress |
| <input type="checkbox"/> 5H1.2 Education and Vocational | <input type="checkbox"/> 5K2.3 Extreme Psychological Injury | <input type="checkbox"/> 5K2.1 Diminished Capacity |
| <input type="checkbox"/> 5H1.3 Mental and Emotional | <input type="checkbox"/> 5K2.4 Abduction or Unlawful | <input type="checkbox"/> 5K2.1 Public Welfare |
| <input type="checkbox"/> 5H1.4 Physical Condition | <input type="checkbox"/> 5K2.5 Property Damage or Loss | <input type="checkbox"/> 5K2.1 Voluntary Disclosure of |
| <input type="checkbox"/> 5H1.5 Employment Record | <input type="checkbox"/> 5K2.6 Weapon or Dangerous | <input type="checkbox"/> 5K2.1 High-Capacity, |
| <input type="checkbox"/> 5H1.6 Family Ties and | <input type="checkbox"/> 5K2.7 Disruption of Government | <input type="checkbox"/> 5K2.1 Violent Street Gang |
| <input type="checkbox"/> 5H1.1 Military Record, Charitable
Good Works | <input type="checkbox"/> 5K2.8 Extreme Conduct | <input type="checkbox"/> 5K2.2 Aberrant Behavior |
| <input type="checkbox"/> 5K2.0 Aggravating or Mitigating | <input type="checkbox"/> 5K2.9 Criminal Purpose | <input type="checkbox"/> 5K2.2 Dismissed and Uncharged |
| | <input type="checkbox"/> 5K2.1 Victim's Conduct | <input type="checkbox"/> 5K2.2 Age or Health of Sex |
| | | <input type="checkbox"/> 5K2.2 Discharged Terms of |
| | | <input type="checkbox"/> Other guideline basis (e.g., 2B1.1 |

D Explain the facts justifying the departure. (Use page 4 if necessary.)

DEFENDANT: DEMETRIUS KENNEY
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DISTRICT: WESTERN DISTRICT OF PENNSYLVANIA

STATEMENT OF REASONS
(Not for Public Disclosure)

VI COURT DETERMINATION FOR SENTENCE OUTSIDE THE ADVISORY GUIDELINE SYSTEM

(Check all that apply.)

A The sentence imposed is (Check only one.):

- ☐ below the advisory guideline range
☐ above the advisory guideline range

B Sentence imposed pursuant to (Check all that apply.):

1 Plea Agreement (Check all that apply and check reason(s) below.):

- ☐ binding plea agreement for a sentence outside the advisory guideline system accepted by the court
☐ plea agreement for a sentence outside the advisory guideline system, which the court finds to be
☐ plea agreement that states that the government will not oppose a defense motion to the court to system

2 Motion Not Addressed in a Plea Agreement (Check all that apply and check reason(s) below.):

- ☐ government motion for a sentence outside of the advisory guideline system
☐ defense motion for a sentence outside of the advisory guideline system to which the government did
☐ defense motion for a sentence outside of the advisory guideline system to which the government

3 Other

- ☐ Other than a plea agreement or motion by the parties for a sentence outside of the advisory guideline

C Reason(s) for Sentence Outside the Advisory Guideline System (Check all that apply.)

- ☐ the nature and circumstances of the offense and the history and characteristics of the defendant pursuant to 18
☐ to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the
☐ to afford adequate deterrence to criminal conduct (18 U.S.C. § 3553(a)(2)(B))
☐ to protect the public from further crimes of the defendant (18 U.S.C. § 3553(a)(2)(C))
☐ to provide the defendant with needed educational or vocational training, medical care, or other correctional (18 U.S.C. § 3553(a)(2)(D))
☐ to avoid unwarranted sentencing disparities among defendants (18 U.S.C. § 3553(a)(6))
☐ to provide restitution to any victims of the offense (18 U.S.C. § 3553(a)(7))

D Explain the facts justifying a sentence outside the advisory guideline system. (Use page 4 if necessary.)

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STATEMENT OF REASONS
(Not for Public Disclosure)

VII COURT DETERMINATIONS OF RESTITUTION

- A ☒ Restitution Not Applicable.
- B Total Amount of Restitution: _____
- C Restitution not ordered (Check only one.):
- 1 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not identifiable victims is so large as to make restitution impracticable under 18 U.S.C. § 3663A(c)(3)(A).
 - 2 ☐ For offenses for which restitution is otherwise mandatory under 18 U.S.C. § 3663A, restitution is not issues of fact and relating them to the cause or amount of the victims' losses would complicate or prolong that the need to provide restitution to any victim would be outweighed by the burden on the sentencing
 - 3 ☐ For other offenses for which restitution is authorized under 18 U.S.C. § 3663 and/or required by the ordered because the complication and prolongation of the sentencing process resulting from the fashioning the need to provide restitution to any victims under 18 U.S.C. § 3663(a)(1)(B)(ii).
 - 4 ☐ Restitution is not ordered for other reasons. (Explain.)
- D ☐ Partial restitution is ordered for these reasons (18 U.S.C. § 3553(c)):

VIII ADDITIONAL FACTS JUSTIFYING THE SENTENCE IN THIS CASE (If applicable.)

Sections I, II, III, IV, and VII of the Statement of Reasons form must be completed in all felony cases.

Defendant's Soc. Sec. 159-64-9066

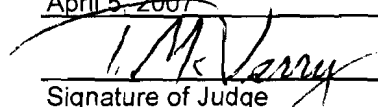
Defendant's Date of June 19, 1983

Defendant's Residence 224 Luray Street
Pittsburgh, PA 15214

Defendant's Mailing Address: Same as above

Date of Imposition of Judgment

April 5, 2007


Signature of Judge

Terrence F. McVerry / U.S. District Judge

Name and Title of Judge

Date April 5, 2007